IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION No. 18532 of 2004

Between:

Nallabothu Seetharamaiah @ Ramulu, S/o. Narayana,
R/o. Tondepi, Muppalla Mandal, Guntur District.

..... PETITIONER

AND

1 The District Collector (Panchayat Wing), Guntur District Guntur.
2 The District Panchayat Officer, Guntur, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the orders in Roc.No. 7623/2003-G4 dated 22-9-2004 passed by the 1st respondent-District Collector (Panchayat Wing), Guntur as illegal, contrary to law, against principles of natural justice and without jurisdiction.

Counsel for the Petitioner: Mr.VENKATESWARLU POSANI

Counsel for Respondents : G.P. FOR PANCHAYAT RAJ & RURAL DEV.

The Court made the following :

ORDER:

Heard the learned counsel for petitioners and the learned Government Pleader for Respondents.

Assailing the impugned proceedings passed by the first respondent dated 22.9.2004 whereby the petitioner was disqualified to hold the post of Sarpanch, the present writ petition is filed.

The petitioner who was elected as Sarpanch of Thondapi Gram Panchayat was convicted for the offence under Section 302 of Indian Penal Code by this Court in Crl.A.No.921 of 2000 dated 24.7.2003. The District Collector by the impugned order dated 22.9.2004 informed the petitioner that he has been disqualified to hold the post of Sarpanch in view of his conviction.

The learned counsel for petitioner contends that merely because the petitioner has been convicted for the offence punishable under Section 302 I.P.C., the same cannot be connected to the petitioner for the purpose of disqualification and he cannot be disqualified to hold the post of Sarpanch, under Section 19(1)(b) of the A.P.Panchayat Raj Act and the said offence cannot be termed as moral delinquency. He further contends that under Section 22 of the Act when such an allegation of disqualification of a member is made, the executive authority has to intimate the same to the member concerned through the District Panchayat Officer and if the member disputes the correctness of the same, he can approach the District Judge within a period of two months from the date of such intimation. But no such intimation has been given to the petitioner and straightaway the order disqualifying the petitioner has been passed by the District Collector.

But in the instant case, there cannot be any dispute that the petitioner has been convicted by the High Court under Section 302 I.P.C. and even the Supreme Court, though released the petitioner on bail, did not grant any stay in the matter. Therefore, the conviction remains till the same is set aside by the Supreme Court in appeal and the petitioner cannot continue to hold the office so long as conviction operates against him. If the petitioner has any objection about the same being invoked for the purpose of disqualification, he may approach the District Judge, who shall pass appropriate orders.

In view of the above, the writ petition is liable to be dismissed and is accordingly

dismissed. No costs.

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A.GOPAL REDDY, J

Date: 11.10.2004

DA

To

1 The District Collector (Panchayat Wing), Guntur District Guntur.
2 The District Panchayat Officer, Guntur, Guntur District.

3 Two CCs to the G.P. for Panchayat Raj & Rural Development

Department, High Court Buildings, Hyderabad (OUT).

4 Two CD copies.